

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,
Plaintiff,
v.
SERGIO J. CRUZ,
Defendant.

NO. 03-CR-30045-WDS

MEMORANDUM AND ORDER

STIEHL, District Judge:

Before the Court is defendant's motion for reduction in sentence pursuant to 18 U.S.C. § 3582 (Doc. 174) and motion for status (Doc. 177). The United States Sentencing Commission has enacted an amendment to the United States Sentencing Guidelines that, in general, has the effect of reducing the sentencing ranges for offenses involving particular quantities of crack cocaine. See U.S. Sentencing Guidelines Manual app. C, amend. 750 (2011).

Under § 3582, a two step process applies when a court considers whether a reduction is warranted. *Dillon v. United States*, 130 S. Ct. 2683, 2691 (2010). First the Court must determine if the defendant is eligible for a reduction under the Amended Guidelines. *Id.* If not, then there is no authority to reduce his sentence. Where an amendment to the Guidelines “does not have the effect of lowering the defendant’s applicable guideline range,” a reduction is not warranted. U.S.S.G. § 1B1.10(a)(2)(B). If, he is eligible for reduction, the Court has discretion, under 18 U.S.C. § 3553(a) sentencing factors, to determine if a reduction is appropriate.

After review of the defendant's motion, and all relevant factors prescribed by § 1B1.10 and Application Note 1(B) to same, the Court has determined that a reduction of sentence based on the

amended guideline range from his current sentence is not available to the defendant. The amendments to the sentencing guidelines are applicable only to a change in the guidelines for crack cocaine related offenses. Defendant himself notes that he was convicted, after a guilty plea, of conspiracy to distribute marijuana in violation of 21 U.S.C. §§ 841(a)(1) and 846. Marijuana offenses are not covered by the amendments and, therefore, the Court **DENIES** the defendant's motion for a reduction on all grounds raised. The motion for status is **DENIED** as moot.

IT IS SO ORDERED.

DATE: 19 December , 2011

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE